

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

THOMAS JAMES MAHONE,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 4:15-CV-180-CDL-MSH
	:	
MIDTOWN MEDICAL CENTER,	:	
<i>et al.,</i>	:	
	:	
Defendants.	:	

**ORDER AND
REPORT AND RECOMMENDATION**

Pending before the Court are Plaintiff's motions for relief from judgment (ECF No. 75) and sanctions (ECF No. 76). For the reasons explained below, it is recommended that Plaintiff's motion for relief from judgment be denied. Plaintiff's motion for sanctions is denied.

BACKGROUND

On August 24, 2017, the undersigned submitted an Order and Report and Recommendation, recommending that Defendants' motion for summary judgment (ECF No. 32) be granted. Order and R. & R. 1, ECF No. 59. On September 27, 2017, that report and recommendation was adopted as the order of the Court. Order, ECF No. 63. Judgment was entered the same day (ECF No. 64). On May 7, 2018, Plaintiff filed motions for relief from judgment (ECF No. 75) and sanctions (ECF No. 76). Defendants responded to both motions on May 11, 2018 (ECF No. 77). These motions are ripe for review.

DISCUSSION

I. Motion for Relief from Judgment

Plaintiff moves for relief from judgment under Fed R. Civ. P. 60(b). He argues that the order granting summary judgment is void because all parties did not consent to the Magistrate Judge exercising jurisdiction as required by 28 U.S.C. § 636(c)(1). Mot. for Relief from J. 3-4, ECF No. 75. Plaintiff also argues various officers of the Court committed fraud by conspiring to enter the void judgment. *Id.* at 12-13.

Plaintiff's motion is without merit. The Magistrate Judge did not enter the order granting Defendants summary judgment. The Magistrate Judge submitted an order and report and recommendation recommending that summary judgment for Defendants be granted and also ruling on non-dispositive motions. *See generally* Order and R. & R. This was within his authority. *See* 28 U.S.C. § 636(b); Order, Nov. 9, 2015, ECF No. 3. The District Judge granted Defendants summary judgment by entering an order approving and adopting the report and recommendation. Order, Sept. 27, 2017, ECF No. 63. Accordingly, it is recommended that Plaintiff's motion for relief from judgment (ECF No. 75) be denied.

II. Motion for Sanctions

Plaintiff also moves for sanctions against various officers of the Court, contending they violated Fed. R. Civ. P. 11 by fraudulently obtaining a judgment which was a "nullity." Mot. for Sanctions 1-2, ECF No. 76. As explained above, the judgment is not a nullity. Plaintiff's motion for sanctions is denied.

CONCLUSION

For the reasons explained above, it is recommended that Plaintiff's motions for relief from judgment (ECF No. 75) be denied. Plaintiff's motion for sanctions (ECF No. 76) is denied. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within fourteen (14) days after being served with a copy hereof. The district judge shall make a de novo determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, "[a] party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO ORDERED and RECOMMENDED, this 5th day of November, 2018.

/s/ Stephen Hyles
UNITED STATES MAGISTRATE JUDGE